

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,

v.

MARLON RIVERA,

Defendant.

No. 1:19-CR-10459-46

**DEFENDANT MARLON RIVERA'S
SUPPLEMENTAL SENTENCING MEMORANDUM**

The defendant Marlon Rivera submits this Supplemental Sentencing Memorandum to respond to a new assertion made in the government's Memorandum in Support of Sentencing Recommendation and Response to Objections to Presentence Report filed on November 29, 2020 ("Govt. Mem.").

The government twice suggests that "the remaining members of the Fitchburg chapter" carried out the violent termination of the former Fitchburg Inca in August 2018, thus implicating Mr. Rivera in that violent act. (Govt. Mem. at 6-7.) But the government has expressly represented elsewhere that it does *not* believe that members of the Fitchburg chapter carried out that termination. In the Arrest Affidavit of Special Agent Coppo, after quoting extensive dialogue between Rodriguez, alleged Inca for the North Shore of Boston, and Cotto, a New Bedford Latin King, the government states:

273. In this conversation, I. RODRIGUEZ suggests that he and COTTO will handle the termination with other members *not* from Fitchburg." COTTO agreed, and I. RODRIGUEZ mentioned that ROLDAN [alleged Massachusetts Cacique, or enforcer] had told already laid the seed of the ambush by telling Victim 34 that "all the Incas from every city are gonna be gettin' up or some shit like that." They discuss when the assault will occur and I. RODRIGUEZ stated that ROLDAN will let him know a date and that ROLDAN will attend as well. COTTO responded

“Aight so say less so we in there all of us.” I. RODRIGUEZ responded “yeah, fuck it. Do whatever we gotta do,” affirming the plan.

(ECF No. 12-1, at 98) (emphasis added). Thus, three senior Latin Kings from outside the area are believed to have carried out the termination. Whatever remark Will Velez made at the October 2018 meeting, there is no basis to infer that Mr. Rivera was involved in planning or carrying out that termination, since the government contends otherwise.

The government also fails to address how it has carried its burden of proving that Mr. Rivera led a chapter that Peguero-Colon, a Massachusetts leader, expressly stated was no longer a Latin Kings affiliate after the August 2018 termination. The government makes several conclusory references that assume, without further evidence, that Mr. Rivera became the Inca (referring to Fitchburg members as Mr. Rivera’s “underlings,” and saying he “obtained his position of leadership” based on violence) (Govt. Mem. at 6, 7); but fails to demonstrate that he *acted* as a leader, as it acknowledges it must. (*Id.* at 3.)

Mr. Rivera was not involved in violent acts on behalf of the Latin Kings, and his requested imprisonment sentence of 30 months remains appropriate.

Dated: December 1, 2020

Respectfully submitted,

MARLON RIVERA

By his attorney,

/s/ John J. Falvey, Jr.
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CERTIFICATE OF SERVICE

I, John J. Falvey, Jr., certify that this document will be sent by electronic mail to counsel for the government on this date.

/s/ John J. Falvey Jr.
John J. Falvey, Jr. (BBO# 542674)